

### 7.305

required to accomplish a cost comparison;

(2) Review the estimate for completeness and accuracy and have the estimate audited; and

(3) Submit to the contracting officer the completed form and all necessary detailed supporting data in a sealed, dated envelope, or electronic equivalent, not later than the time established for receipt of initial proposals or bid opening. If more time is needed to develop the Government's cost estimate, the contracting officer shall amend the opening date of the solicitation.

(c) *Solicitation.* (1) The contracting officer shall issue a solicitation based on the performance work statement prepared in accordance with paragraph (a) of this section. Prepriced option prices in existing contracts will not be used instead of issuing a new solicitation when conducting a cost comparison under a new start.

(2) Firm offers shall be required for the period covered by the cost comparison, by using (i) a base contract period and any applicable priced options to total the amount of time represented by the cost estimate for Government performance (see subpart 17.2), or (ii) a multiyear contract when appropriate (see subpart 17.1).

(3) Solicitations shall not, unless a proper determination to the contrary is made, limit award to U.S. offerors.

(d) *Integrity of cost comparison.* (1) The confidentiality of (i) the cost estimate for Government performance and (ii) the bids in sealed bid cost comparisons shall be maintained until the time of bid opening, to ensure that they are completely independent.

(2) For cost comparisons conducted using the results of negotiation procedures, confidentiality and independence shall be maintained until after negotiations are completed and the most advantageous offer has been selected.

(3) Personnel who have knowledge of the cost figures in the cost estimate for Government performance shall not participate in the offer-evaluation process unless the contract file is adequately

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documented to show that no other qualified personnel were available.

[48 FR 42124, Sept. 19, 1983, as amended at 50 FR 1735, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 55 FR 25526, June 21, 1990; 57 FR 60575, Dec. 21, 1992; 60 FR 34737, July 3, 1995]

### 7.305 Solicitation provisions and contract clause.

(a) The contracting officer shall, when contracting by sealed bidding, insert in solicitations issued for the purpose of comparing the costs of contractor and Government performance the provision at 52.207-1, Notice of Cost Comparison (Sealed-Bid).

(b) The contracting officer shall, when contracting by negotiation, insert in requests for proposals issued for the purpose of comparing the costs of contractor and Government performance the provision at 52.207-2, Notice of Cost Comparison (Negotiated).

(c) The contracting officer shall insert the clause at 52.207-3, Right of First Refusal of Employment, in all solicitations which may result in a conversion from in-house performance to contract performance of work currently being performed by the Government and in contracts that result from the solicitations, whether or not a cost comparison is conducted. The 10-day period in the clause may be varied by the contracting officer up to a period of 90 days.

[48 FR 42124, Sept. 19, 1983, as amended at 50 FR 1735, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 52 FR 9037, Mar. 20, 1987; 56 FR 55372, Oct. 25, 1991]

### 7.306 Evaluation.

The evaluation procedure to be followed after the contracting officer receives the cost estimate for Government performance (see 7.304(b)) and the responses to the solicitation differs from conventional contracting procedures as follows:

(a) *Sealed bidding.* (1) At the public bid opening, after recording of bids, the contracting officer shall—

(i) Open the sealed cost comparison on which the cost estimate for Government performance has been entered;

(ii) Enter on the cost comparison form the price of the apparent low bidder;